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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012-0076; Sequence 42]

[OMB Control No. 9000-0071]

**Federal Acquisition Regulation; Submission for OMB Review;
Price Redetermination**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension of an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Price Redetermination. A notice was published in the *Federal Register* at 77 FR 51784, on August 27, 2012. One respondent submitted comments.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond,

through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before **[Insert date 30 days after publication in the Federal Register.]**

ADDRESSES: Submit comments identified by **Information Collection 9000-0071, Price Redetermination**, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0071, Price Redetermination". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0071, Price Redetermination" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0071, Price Redetermination.

Instructions: Please submit comments only and cite Information Collection 9000-0071, Price Redetermination, in all correspondence related to this collection. All comments

received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 501-1448 or email curtis.glover@gsa.gov.

SUPPLEMENTARY INFORMATION:

I. Purpose

FAR 16.205, Fixed-price contracts with prospective price redetermination, provides for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. FAR 16.206, Fixed price contracts with retroactive price redetermination, provides for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs.

II. Discussion and Analysis

One respondent submitted public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

Comment: The respondent commented that the extension of the information collection would violate the fundamental

purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Required Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to FAR 16.206, Fixed price contracts with retroactive price redetermination. The FAR section allows an agency to award a contract with a fixed ceiling price and retroactively redetermine the price within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The Government uses this information to establish

fair price adjustments to Federal contracts.

Not granting this extension would consequently eliminate the Government's ability to negotiate a fair and reasonable firm-fixed price after the initial period.

Comment: The respondent commented that the agency did not accurately estimate the public burden an extension of this information collection requirement would create. The respondent offers that the obligations imposed by the clause under a fixed-price contract with prospective price redetermination are onerous, and will require a contractor to implement accounting systems that are equipped to account for allowable costs substantially the same as a cost reimbursement contract. The respondent believes a more reasonable estimate of hours per response would be in the range of 40 to 80 hours.

Response: It is expected and anticipated that potential contractors seeking to do business with the Government under a fixed-price contract with prospective price redetermination would have accounting systems that allow for collecting, tracking, monitoring and reporting the type of information required for this collection. Generally, the information requested under this collection is generated in the normal course of doing business, available electronically and organized similar to the format requested. However, considering the public comment and given the extent a company may not provide for accounting the information as previously discussed, the Government has adjusted the hours per response for this information collection to 8 hours.

Comment: The respondent commented that the collective burden of compliance with the information collection requirement greatly exceeds the agencies estimate and outweighs any potential utility of the extension.

Response: The respondents concern is addressed within the framework of OMB review and approval of this information collection requirement and its associated regulation, as required by the Paperwork Reduction Act (PRA) and Executive Order 12866. The PRA requires Federal agencies to take specific steps before requiring or requesting information from the public. These steps include (1) seeking public comment on proposed information collections and (2) submitting proposed collections for review and approval by OMB. A central goal of OMB review is to help agencies strike a balance between collecting information necessary to fulfill their statutory missions and guarding against unnecessary or duplicative information that imposes unjustified costs on the American public. In this regard, OMB evaluates whether the collection of information by the agency: is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; minimizes the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected; and

maximizes the practical utility of and public benefit from information collected by or for the Federal Government.

The OMB review process under Executive Order 12866 seeks to ensure that agencies, to the extent permitted by law, comply with the regulatory principles stated in the Executive Order and that the President's policies and priorities are reflected in agency rules. Such review also helps to promote adequate interagency review of draft proposed and final regulatory actions, so that such actions are coordinated with other agencies to avoid inconsistent, incompatible, or duplicative policies. OMB review helps to ensure that agencies carefully consider the consequences of rules (including both benefits and costs) before they proceed.

Comment: The respondent commented that the Government's response to the Paperwork Reduction Act waiver for FAR Case 2007-006 is instructive on the total burden for respondents.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering

particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business. Careful consideration went into assessing the estimated burden hours for this collection, and it is determined that an upward adjustment is reasonable at this time.

III. Annual Reporting Burden

Based on Fiscal Year 2011 information from the Federal Procurement Data System, an estimated 230 unique contractors were awarded 1,970 fixed-price redetermination contracts.

Thus, each vendor responded on average 8.6 times a year (rounded up to 9). The hours per response is increased to 8 hours after a reassessment of the time required to prepare and report the information.

Respondents: 230.

Responses Per Respondent: 9.

Annual Responses: 2,070.

Hours Per Response: 8.

Total Burden Hours: 16,560.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0071, Price

Redetermination, in all correspondence.

Dated: January 17, 2013

William Clark,
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